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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/722,028 | 11/25/2003 | Russel Helfman | 100354-589-NP | 6518 |
| 24964 | 7590 | 10/15/2004 | EXAMINER | |
| GOODWIN PROCTER L.L.P 103 EISENHOWER PARKWAY ROSELAND, NJ 07068 | | | GRILES, BETHANY L | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3643 | |

DATE MAILED: 10/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|------------------------|------------------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/722,028 | HELPMAN, RUSSEL <i>CF</i> |
| | Examiner | Art Unit |
| | Bethany L. Griles | 3643 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 7/13/04.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-9 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Response to Arguments

Applicant's arguments, see amendment, filed 8/4/04, with respect to the rejection(s) of claim(s) 1, 3, and 7 under 102(b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Mack (US4800677).

The indicated allowability of claim 2 is withdrawn based on further consideration and in view of the new rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6,

Claims 1-3, 5, 7, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mack (US4800677).

Regarding claims 1, 2, and 9 Mack discloses a top sheet 22, a backing sheet 20, one or more absorbent sheets 24 and a first element 30 which extends parallel and

partway along opposite sides of one dimension of the pad 10 and a second element 30 located between the edges of one dimension which extends perpendicular from the first element 30 thereby forming ties (col 2, lines 30-34) integral with said pad 10 for tying the collection pad into a compact bundle for disposal.

Regarding claim 3, Mack discloses that the pad further comprises an odor attractant 46 impregnated in the pad to attract the the animal to the pad.

Regarding claim 5, Mack does not disclose the odor attractant is a fresh cut grass scent.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a fresh cut grass scent as an odor attractant for the training pad, as Mack does disclose the use of "outdoor" scents, such as pine. Since the applicant ascribes no specific criticality to the use of fresh cut grass odor, it would be obvious to one of ordinary skill in the art to substitute this scent for pine.

Regarding claim 6, Mack does not disclose the backing sheet is green.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the backing material of any desirable color, as the choice would be purely aesthetic.

Regarding claim 7, Mack discloses an odor deterrent in the form of a pine scent (col 2, line 18), which is a known deodorant.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mack in view of Spellman (US3626899).

Regarding claim 4, Mack does not disclose the use of allyl phenyl acetate.

Spellman discloses the use of allyl phenyl acetate as an odor attractant (col 3, lines 11-13).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Spellman of using allyl phenyl acetate to the pad of Mack, inasmuch as Spellman discloses allyl phenyl acetate serves to attract young dogs to a pad.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mack in view of Ochi (US5797347).

Regarding claim 8, Mack does not disclose that the absorbent sheets consist of an absorbent polymer.

Ochi discloses a core of absorbent polymer (col 2, line 7) between the top and bottom layers.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Ochi of using a layer of absorptive polymer to the sheet of Mack, in view of the teaching of Ochi that polymer powders are excellent liquid absorbers.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

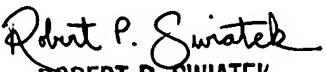
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bethany L. Griles whose telephone number is 703.305.1839. The examiner can normally be reached on Monday through Friday 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703.308.2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Bethany L. Griles
Examiner
Art Unit 3643

blg


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